PURPOSE

The purpose of this policy is to provide instructions on the disqualification requirements for individuals found guilty of an Intentional Program Violation (IPV).

An IPV is a determination made by a state or federal court or an Administrative Disqualification Hearing, including a Disqualification Consent Agreement and plea of guilty or nolo contendere (no contest), that an individual intentionally misrepresented, concealed or withheld facts in order to receive CalWORKs funds that he/she was not entitled to receive.

INDIVIDUALS SUBJECT TO DISQUALIFICATION

Only the individual found guilty of the IPV is disqualified from receiving cash aid.

1. If not CalWORKs eligible at the time, the disqualification period is postponed until the person applies and is found eligible.
2. If the disqualified person loses CalWORKs eligibility during the disqualification period, the disqualification period stops and restarts when the disqualified person becomes eligible again.
3. IPV disqualification periods apply to determinations made in other counties and states.
4. Controls are maintained using information on the Administrative Review ACCO and CalWIN Display Sanction Detail Summary Screen made by the worker of record. The Fraud/Overpayment Review Unit (FRU) submits a Disqualified Recipient Report to the State Department of Social Services for statewide tracking.

INFORMING

The IPV disqualification requirements are listed in the certification section of the Monthly Eligibility Report (QR7).

The SAWS 2A QR outlines client Rights and Responsibilities, including the IPV rules and warning. The applicant/recipient is informed about the IPV rules at the time of application and reinvestigation through a review of the SAWS 2A QR.

Two copies of the SAWS 2A QR are to be completed by the applicant/recipient and the worker. One copy is filed in the case, the second copy with the entire SAWS 2A QR is given to the applicant/recipient.

The applicant/recipient and worker are required to sign the SAWS 2A QR, certifying that the applicant/recipient understands the disqualification and received a copy of the SAWS 2A QR.

Note: The worker prints a copy of the SAWS 2A QR and gives it to the applicant/recipient after CalWIN entries are made.

DETERMINATION OF FRAUD DISQUALIFICATION TIME FRAMES AND SANCTION OR PENALTY

The FRU will determine what fraud disqualification time frames and method of disqualification (sanction or penalty) to apply based on the following:

1. When the fraudulent act was committed; **and**
2. When the individual was convicted or found guilty of fraud.

See Determination of Fraud Penalty or Sanction (Attachment 1)

The FRU will notify the worker of the IPV determination via the CalWORKs Intentional Program Violation (IPV) Disqualification Memo F063-07-314.

DATE FRAUD COMMITTED

The date the fraud was committed determines which fraud disqualification time frames to apply, on 12/31/97 or before time frames or on 1/1/98 or after time frames.
Note: If a fraudulent act is committed over a period of time which begins on 12/31/97 or before, but extends beyond 1/1/98, apply the new time frames for fraud disqualification imposed by AB 1542 (on 1/1/98 or after time frames).

FRAUD DISQUALIFICATION TIME FRAMES

The length of the fraud disqualification period is determined by:

1. The time period during which the IPV was committed; **and/or**
2. The type of fraudulent act; **and/or**
3. The number of IPVs the individual has committed.

ON 12/31/97 OR BEFORE FRAUD DISQUALIFICATION TIME FRAMES

For individuals found to have committed an IPV on 12/31/97 or before, continue to use the same fraud disqualification periods in effect at the time the fraud was committed. However, the individual is sanctioned or penalized based on the date of conviction.

1. Individuals found to have committed an IPV on 12/31/97 or before in a court or administrative hearing decision for all reasons (except for those listed in #2 below), the disqualification period is:

- Six months for the first violation.
- Twelve months for the second violation.
- Permanent for the third violation.

1. Individuals found to have committed an IPV in a court or administrative hearing decision for any of the following acts:

- Submitted more than one application for the same period of time and for the purpose of receiving more than one grant of aid; or
- Submitted documents for nonexistent children; or
- Submitted false documents for the purpose of showing ineligible children to be eligible for aid.

The disqualification period is:

- Two years for the first violation.
- Four years for the second violation.
- Permanent for the third violation.

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ON 1/1/98 OR AFTER FRAUD DISQUALIFICATION TIME FRAMES

Individuals found to have committed an IPV on 1/1/98 or after, are sanctioned or penalized based on date of conviction using the CalWORKs fraud disqualification periods imposed by AB 1542.

Note: If a fraudulent act is committed over a period of time that starts on 12/31/97 or before, and extends beyond 1/1/98, the new time frames for fraud disqualifications apply.

1. Individuals found in a court or administrative hearing decision to have committed an IPV for any of the following acts:

• Making a false or misleading statement, or misrepresenting, concealing or withholding facts; or

• Committing any act intended to mislead, misrepresent, conceal, or withhold facts.

The disqualification period is:

• Six months for the first violation.

• Twelve months for the second violation.

• Permanent for the third violation.

1. Individuals found in a court or administrative hearing decision to have committed an IPV for submitting more than one application for the same type of aid, for the same period of time, for any of the following purposes:

• To receive more than one grant of aid; or

• To establish or maintain the family's eligibility for aid; or

• To increase the amount of aid; or

• To prevent a reduction in the amount of aid.

The disqualification period is:

• Two years for the first violation.

• Four years for the second violation.

• Permanent for the third violation.

1. Individuals convicted of felony fraud in a state or federal court (not meeting other permanent disqualification criteria) and theft (fraudulently received aid) of:

• Less than $2,000 = Two year disqualification period.

• More than $2,000, but less than $5,000 = Five year disqualification period.

• $5,000 or more = Permanent disqualification period.

1. Individuals found in a state or federal court or administrative hearing decision to have committed an IPV for any of the following acts are permanently disqualified:

• Made a fraudulent statement or representation regarding their place of residence in order to receive assistance simultaneously from two states or counties; or

• Submitted false documentation for nonexistent or ineligible children; or

• Received cash benefits in excess of $10,000 through fraudulent means (not felony fraud); or

• Convicted with a third IPV.

DATE OF CONVICTION/ FINDING OF FRAUD

The date of conviction or finding of fraud is the date the disqualified individual(s) is determined to have committed an IPV based on any of the following:

• Court conviction

• Administrative Disqualification

• Disqualification Consent Agreement

• Deferred Adjudication (plea of guilty or nolo contendere)

In accordance with ACL 98-72, the date of conviction determines which method of disqualification to apply:

• Sanction if convicted on 6/30/98 or before

• Penalty if convicted on 7/1/98 or after

See Determination of Fraud Disqualification Time Frames (Attachment 2)

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SANCTION (CONVICTION ON 6/30/98 OR BEFORE)

The disqualified individual who is convicted of an IPV on 6/30/98 or before is **sanctioned**. The individual is:

- No longer considered a member of the Assistance Unit (AU) (Denied or Discontinued).
- Not automatically eligible for Medi-Cal (Split Medi-Cal only).
- Not required to participate in Welfare-To-Work (WTW).

No time on aid is counted toward the 60-month time limit for the disqualified individual. The cash grant is to only be issued in vendor/two-party checks (at a minimum for the rent and utilities). All nonexempt income of the individual is used in the eligibility and grant determination of the AU, allowing all appropriate income disregards. All of the individual's nonexempt property is considered to be available to the AU.

PENALTY (CONVICTION ON 7/1/98 OR AFTER)

The disqualified individual who is convicted of an IPV on 7/1/98 or after is **penalized**. The individual is:

- A member of the AU whose needs are not considered in the Family/AU MAP.
- Automatically eligible for cash-based Medi-Cal.
- Required to participate in WTW.

Time on aid is counted toward the 60-month time limit for the disqualified individual. All nonexempt income of the individual is used in the eligibility and grant determination of the AU, allowing all appropriate income disregards. All of the individual's nonexempt property is considered to be available to the AU.

THE IPV PROCESS

Fraud referrals made for overpayments due to client suspected fraud trigger an investigation for IPV determination. See CW Policy 100-H4 Fraud Referrals.
After the fraud referral is completed:

1. Continue cash grant adjustment for overpayment recoupment as appropriate, unless notified by the FRU to stop adjustment pending criminal prosecution.
2. Do not apply disqualification sanctions/penalties until notified to do so by the FRU.

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IPV DISQUALIFICATION IDENTIFIED AND PROCESSED FOR APPLICANT CASES

The ISW shall:

1. Check the CalWIN Special Indicators for fraud alerts to determine if any member of the AU is subject to disqualification.
2. Review the IEVS410 Applicant Abstract for disqualification information. To access the IEVS410 in CalWIN, follow the IEVS Applicant Reports Resource Guide.
3. Complete the Applicant Group Box on the **Create IEVS Applicant Review Document** window in CalWIN when all issues related to the IEVS Applicant Abstract have been resolved.
4. Review the case record for the CalWORKs Intentional Program Violation (IPV) Disqualification Memo F063-07-314 to determine if an IPV determination has been established but a sanction or penalty has not been imposed.
5. Impose fraud disqualification period by sending the appropriate CalWIN Notice of Action (NOA).

Sanction:

1. Use CalWIN NOA M20-353D to deny the sanctioned person due to the IPV and approve the remaining members of the AU.
2. Use CalWIN NOA M20-353E to deny case when the only eligible person is sanctioned due to the IPV. For example: Parent is IPV sanctioned and eligibility is based on Supplemental Security Income (SSI) child.

Penalty:

1. Use CalWIN NOA M20-353D to approve the AU in which one of its members is penalized due to an IPV.
2. Use CalWIN NOA M20-353E to deny the case when the only eligible person is penalized due to the IPV and not eligible to a cash aid payment.

Cases eligible to cash-based Medi-Cal:

1. Deny the sanctioned person or the case if the only eligible person is sanctioned; or
2. Make appropriate CalWIN entries for the penalized person in the Display Sanction Summary Detail/Collect Sanction/POI Detail.
3. Send a copy of the CalWIN NOA to the FRU Employment Eligibility Specialist (EES), Building #180. Refer to the IPV Memo to direct the NOA to the appropriate EES.
4. Send a CalWORKs Intentional Program Violation (IPV) Communication Memo F063-30-384 to FRU OD9I, Bldg. #180, to inform FRU when the disqualification period is completed.
5. Complete a CalWORKs Intentional Program Violation (IPV) Tracking Form F063-30-385 for each individual found guilty of an IPV. This form is to be updated each month.
6. File the Tracking Form on the top of the Administrative Review ACCO. If the case closes prior to the end of the sanction/penalty period, send a CalWORKs IPV Communication Memo F063-30-384 to FRU OD9I, Bldg. # 180, including the disqualified person's name, person number, case number and number of months/years remaining in the sanction/penalty period.
7. File a copy of the memo on the Administrative Review ACCO.

Fraud Review/Overpayment Unit (FRU) Responsibilities for Applicant Cases and Recipient Cases:

1. Complete the Disqualification Recipient Report DPS 524 within 30 days.
2. Enter the disqualification data into the State database.
3. File the case copy on the Administrative Review ACCO for future reference.
4. For active cases, notify the worker of the IPV.

CALWIN ENTRIES -PENALIZED PERSONS ONLY FOR RECIPIENT CASES

Once the determination has been made that the case contains an IPV, the OSW makes entries on the Display Sanction Summary Detail/Collect Sanction /POI /Penalty Detail and chooses the appropriate type of penalty from the drop down menu and enters the beginning and end dates of the penalty.

TWO-PARTY CHECKS

The law mandates that a case containing a mandatory AU member(s) who was convicted of an IPV on 6/30/98 or before and is **sanctioned**, is subject to vendor/two-party check payments (at a minimum for the rent and utilities). Recurring two-party checks will be issued through CalWIN. Refer to the Two-Party Check Issuance in CalWIN Resource Guide.

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W-9 "REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION"

Before a vendor/provider is issued a two-party check they are required to complete a W-9 form and return. The applicant/recipient is to be given a blank W-9 form with a pre-paid envelope to take to the vendor/provider.
The original completed W-9 form is to be submitted to District Accounting staff to provide information for the 1099 form. File a copy of the W-9 form in the case.

WHEN THE SANCTIONED INDIVIDUAL IS ELIGIBLE FOR AID AGAIN

At the end of the sanction period, a previously sanctioned individual is eligible for inclusion in the AU and eligibility must be **automatically** assessed. A new SAWS 2 must be completed to add the sanctioned person back into the AU.
Exception: Permanent disqualification.

WHEN TO RESTORE THE PENALIZED INDIVIDUAL'S NEEDS

The needs of a penalized person shall be restored the first of the month following the penalty period. No new application is required since the person has remained an AU member throughout the penalty period.
Exception: Permanent disqualification.

FOOD STAMP IPV

If a Food Stamp IPV sanction applies, a separate notice of action is required. See the Food Stamp IPV Procedure in the Food Stamp Handbook and Food Stamp policy.

SETTING A PURGE EXCEPTION

Cases with an IPV are to be kept indefinitely and not purged. Therefore, in order to prevent a case from automatically being purged, the FRU will set a case archive exception following the Archive Exclusion Details Resource Guide.

REFERENCES

AB 1542
ACL 97-69
ACL 98-72
CDSS MPP Division 20

FORMS

F063-07-314 IPV Disqualification Memo
F063-30-384 IPV Communication Memo
F063-30-385 IPV Tracking Form
DPS 524 Disqualified Recipient Report

ATTACHMENTS

Determination of Fraud Penalty or Sanction
Determination of Fraud Disqualification Time Frames

RESOURCE GUIDES

Two-Party Check Issuance in CalWIN
Archive Exclusion Details
IEVS Applicant Reports Resource Guide

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